

1 John P. Hooper
jhooper@kslaw.com
2 KING & SPALDING LLP
3 1185 Avenue of the Americas
4 New York, NY 10036
5 Telephone: (212) 556-2220

Counsel for the Toyota Defendants

6 Elizabeth J. Cabraser (83151)
ecabraser@lchb.com
7 LIEFF CABRASER HEIMANN &
8 BERNSTEIN, LLP
9 275 Battery Street, 29th Floor
San Francisco, CA 94111-3339
Telephone: (415) 956-1000

Mark P. Robinson, Jr. (54426)
mrobinson@rcrlaw.net
Donald H. Slavik
dslavik@rcrlaw.net
ROBINSON CALCAGNIE
ROBINSON SHAPIRO DAVIS, INC.
19 Corporate Plaza Dr.
Newport Beach, CA 92660
Telephone: (949) 720-1288

*Plaintiffs' Co-Lead Counsel for the
Personal Injury/Wrongful Death Cases*

W. Daniel Miles, III
dee.miles@beasleyallen.com
BEASLEY ALLEN CROW METHVIN
PORTIS & MILES PC
272 Commerce Street
P.O. Box 4160
Montgomery, AL 36103
Telephone: (334) 269-2343

*Member of the Plaintiffs' Liaison
Counsel Committee for the Personal
Injury/Wrongful Death Cases*

14

15 **UNITED STATES DISTRICT COURT**

16 **CENTRAL DISTRICT OF CALIFORNIA – SOUTHERN DIVISION**

17 In Re: TOYOTA MOTOR CORP.
18 UNINTENDED
19 ACCELERATION MARKETING,
20 SALES PRACTICES, AND
21 PRODUCTS LIABILITY
22 LITIGATION

This document applies to

All Personal Injury, Wrongful Death
and Property Damage Cases

Case No. 08:10-ML-2151 JVS (FMOx)

**PLAINTIFFS' AND TOYOTA
DEFENDANTS' JOINT STATUS
REPORT REGARDING THE
INTENSIVE SETTLEMENT
PROCESS**

Date: May 15, 2019
Time: 8:00 a.m.
Dept: Courtroom 10C
Judge: Honorable James V. Selna

1 Pursuant to the Court's Civil Minutes dated January 14, 2014 (Dkt No.
2 4504), the Court's Civil Minutes dated April 29, 2014 (Dkt No. 4554), the Court's
3 Civil Minutes dated October 21, 2014 (Dkt No. 4740), the Court's Civil Minutes
4 dated March 17, 2015 (Dkt No. 4933), the Court's Civil Minutes dated July 30,
5 2015 (Dkt No. 5030), the Court's Civil Minutes dated October 13, 2015 (Dkt No.
6 5073), the Court's Civil Minutes dated January 12, 2016 (Dkt No. 5112), the
7 Court's Civil Minutes dated April 7, 2016 (Dkt No. 5150), the Court's Civil
8 Minutes dated June 29, 2016 (Dkt No. 5199), the Court's text-only entry dated
9 October 5, 2016 (Dkt No. 5229), the Court's Civil Minutes dated December 6, 2016
10 (Dkt. No. 5273), the Court's Civil Minutes dated March 7, 2017 (Dkt. No. 5338),
11 the Court's Civil Minutes dated June 13, 2017 (Dkt. No. 5423), the Court's Civil
12 Minutes dated October 11, 2017 (Dkt. No. 5476), the Court's Civil Minutes dated
13 January 17, 2018 (Dkt. No. 5525), the Court's Civil Minutes dated April 25, 2018
14 (Dkt. No. 5589), the Court's Civil Minutes dated July 31, 2018 (Dkt No. 5621), the
15 Court's Civil Minutes dated December 12, 2018 (Dkt No. 5685), and in advance of
16 the Court's next Status Conference, which is set for May 15, 2019 at 8:00 a.m.,
17 Plaintiffs' Co-Lead Counsel for the Personal Injury/Wrongful Death Cases and
18 members of the Plaintiffs' Liaison Counsel Committee for the Personal
19 Injury/Wrongful Death Cases (collectively "Plaintiffs' Co-Lead Counsel") and
20 counsel for Defendants Toyota Motor Corporation and Toyota Motor Sales, U.S.A.,
21 Inc. hereby respectfully submit this Joint Status Report Regarding the Intensive
22 Settlement Process (the "ISP"). The ISP is continuing to make good progress as the
23 parties attempt to resolve the various personal injury, wrongful death and/or
24 property damage cases pending before this Court and in other courts.¹
25

26 ¹ The Court's Order Establishing Intensive Settlement Process ("ISP") and Setting
27 Hearing (Dkt No. 4490) (the "ISP Order") was confirmed and adopted at the
28 hearing held on January 14, 2014 and memorialized in the Court's Civil Minutes –
General dated January 14, 2014 (Dkt No. 4504). A similar order was issued by
Judge Edmon in Toyota Motor Cases, Joint Council Coordination Proceeding, No.

1 **I. Current Settlement Status**

2 Toyota is pleased to report that they have resolved, or have agreements in
3 principle to resolve, 533 matters.² Of this number, Toyota notes that 183 cases
4 (97%) are/were pending in the MDL (out of 188 total personal injury cases in the
5 MDL) and 104 cases (92%) are/were pending in the JCCP (out of 113 total personal
6 injury cases in the JCCP). According to Toyota, for the remaining 5 cases, or 2%,
7 pending in the MDL, all have requested ISP. Toyota reports that, for the remaining
8 9 cases, or 8%, pending in the JCCP, all have requested ISP.

9 Significantly, there are currently only two³ MDL cases and zero JCCP cases
10 that have gone through the entire ISP process that have been certified by the
11 Settlement Special Master as completing the process without resolving. Three
12 other JCCP cases and three other MDL cases that were previously certified out
13 returned to the ISP and subsequently resolved, and three other MDL cases have
14 been otherwise dismissed by the Court. Attached as Exhibit A is a chart that
15 provides a greater breakdown by category for the ISP. Attached as Exhibit B is a
16 chart that provides additional information on the unresolved MDL and JCCP cases
17 and their current status in the ISP. Attached as Exhibit C is a chart that provides the
18 status of the remaining open cases pending in this MDL.

19 Overall and through the efforts of all parties, including, but not limited to,
20 Plaintiffs' Co-Lead and Liaison Counsel, Toyota advises the Court that it has
21 agreements in principle to resolve 246 matters outside of the MDL and JCCP
22 Proceedings.⁴

23 **II. ISP Overview**

24 4261 (Superior Court of Los Angeles County, CA) (the "JCCP Proceeding").

25 ² All resolved case numbers have now been updated to include those matters that
26 have been voluntarily dismissed or are no longer being pursued by counsel.

27 ³ Alvarez-Cabrera, has since been remanded to the District of Puerto Rico.

28 ⁴ As of April 26, 2019, plaintiffs in approximately 14 unresolved matters outside of
the MDL or JCCP Proceeding have requested to participate in the ISP and a
majority of these plaintiffs have already provided records and materials necessary
to move forward.

1 Since the issuance and adoption of the ISP Order,⁵ Toyota's counsel have
2 had extensive and intensive negotiations with plaintiffs' firms representing a large
3 number of plaintiffs and claimants. These efforts have included numerous face-to-
4 face meetings with plaintiffs' counsel (including Plaintiffs' Co-Lead Counsel) in
5 cities around the nation. These negotiations continue.

6 Plaintiffs' Co-Lead Counsel and Federal/State Liaison Counsel are in regular
7 contact with Counsel for Toyota and have been since the inception of the ISP.
8 Plaintiffs' Co-Lead Counsel and Federal/State Liaison Counsel encourage
9 plaintiffs' counsel and pro se plaintiffs in all courts to participate in the ISP and
10 assist those counsel and pro se plaintiffs to understand and navigate it. Toyota has
11 provided Plaintiffs' Co-Lead Counsel and Federal/State Liaison Counsel with
12 various lists of counsel having UA cases throughout the country in order that
13 Plaintiffs' Co-Lead Counsel and Federal/State Liaison Counsel can identify those
14 counsel and initiate contact with them.

15 Plaintiffs' Co-Lead Counsel and Federal/State Liaison Counsel have sent
16 numerous emails and memos following the materials sent by the Special Master,
17 and have calls with counsel in UA cases to discuss their participation in the ISP.
18 Plaintiffs' counsel in UA cases oftentimes contact Plaintiffs' Co-Lead Counsel and
19 Federal/State Liaison Counsel for procedural guidance on their cases, which is
20 freely given. Due to the open line of communication between the parties, Plaintiffs'
21 Co-Lead Counsel and Federal/State Liaison Counsel are able to ascertain the status
22 of cases in the ISP for individual counsel. Additionally, access to the electronic
23 depository is given to those counsel with active UA cases, if requested and if the

24
25 ⁵ The court overseeing the Texas state MDL proceeding in In re: Toyota Unintended
26 Acceleration Litigation, Cause No. 2010-46354 (152nd Judicial District, District
27 Court for Harris County, Texas) (the "Texas MDL Proceeding") has issued its own
28 ISP order. This order, which was issued on February 18, 2014, is substantially
similar to the one issued by this Court. The Texas court also appointed Patrick A.
Juneau as the Settlement Special Master in that litigation to perform essentially the
same tasks there as he performs in this MDL.

1 required protective order process is followed.

2 Plaintiffs' Federal/State Liaison Counsel maintain an extensive database of
3 every UA case and counsel's contact information in order to have ready access to
4 any information on the UA case when individual counsel contacts Plaintiffs' Co-
5 Lead Counsel and Federal/State Liaison Counsel.

6 Counsel for Toyota has been and will continue to seek the input of Plaintiffs'
7 Co-Lead Counsel and Federal/State Liaison Counsel and negotiate in good faith
8 with remaining plaintiffs' counsel in attempts to resolve cases both informally/in
9 advance of, and at the ISP settlement conferences and/or mediations. Pursuant to
10 the ISP Order and with Plaintiffs' Co-Lead Counsel and Federal/State Liaison
11 Counsel's assistance, where possible, the ISP settlement conferences are first
12 addressing bellwether plaintiffs, bellwether plaintiffs in the discovery pool and
13 those plaintiffs with exigent circumstances.

14 **III. ISP Settlement Conferences and ISP Mediations That Have Occurred**

15 After meeting and conferring with Plaintiffs' Co-Lead Counsel and since the
16 issuance of the ISP Order, the parties have so far held forty-two official ISP
17 settlement conferences and forty official ISP sets of mediations, in addition to
18 numerous face-to-face informal meetings.

19 Since 2018, the following ISP settlement conferences have occurred:

20 • **Los Angeles, CA:** March 19-20, 2018 (8 matters).

21 • **Los Angeles, CA:** November 6, 2018 (1 matter).

22 • **New York, NY:** January 30, 2019 (1 matter).

23 • **Los Angeles, CA:** March 26, 2019 (4 matters).

24 Since 2018, the following ISP mediations have occurred:

25 • **Atlanta, GA:** May 15, 2018 (2 matters).

26 • **Los Angeles, CA:** November 5, 2018 (7 matters).

27 • **Baltimore, MD:** January 15, 2019 (1 matter).

- **New York, NY**: January 31, 2019 (1 matter).
- **Los Angeles, CA**: March 26-27, 2019 (5 matters).

III. ISP Settlement Conferences and ISP Mediations That Are Being Scheduled

In light of the successes and pursuant to Court order, the parties continue to schedule more ISP settlement conferences and ISP mediations, subject to availability and other issues.

IV. Continued Interest in the ISP

In addition to the resolutions as noted above, Plaintiffs' Co-Lead and Liaison Counsel and Toyota continue to be encouraged by the interest and response to date from plaintiffs' counsel in providing materials for cases to participate in the ISP. In addition, the Settlement Special Master's office, Plaintiffs' Co-Lead and Liaison Counsel and counsel for Toyota have received and responded to hundreds of e-mails, telephone calls, and letters regarding the ISP.

The Settlement Special Master and counsel for Toyota are in the process of meeting and conferring with Plaintiffs' Co-Lead and Liaison Counsel regarding upcoming ISPs as well as collecting records in order to begin confidential good faith negotiations. Plaintiffs' Federal/State Liaison Counsel continues to provide information and procedural assistance to those inquiring and interested in ISP participation, and in doing informational outreach to the declining number of those not yet engaged in the process.

Dated: May 7, 2019

KING & SPALDING LLP

By: /s/ John P. Hooper
John P. Hooper
jhooper@kslaw.com
1185 Avenue of the Americas
New York, NY 10036
Telephone: (212) 556-2220

Attorneys for Defendants Toyota

*Motor Corp. and Toyota Motor
Sales, U.S.A., Inc.*

LIEFF CABRASER HEIMANN
&
BERNSTEIN, LLP

By: /s/ Elizabeth J. Cabraser

Elizabeth J. Cabraser (83151)
ecabraser@lchb.com
LIEFF CABRASER HEIMANN
&
BERNSTEIN, LLP
275 Battery Street, 29th Floor
San Francisco, CA 94111-3339
Telephone: (415) 956-1000

Mark P. Robinson, Jr. (54426)
mrobinson@rcrlaw.net
Donald H. Slavik
dslavik@rcrlaw.net
ROBINSON CALCAGNIE
ROBINSON SHAPIRO
DAVIS, INC.
19 Corporate Plaza Drive
Newport Beach, CA 92660
Telephone: (949) 720-1288
Facsimile: (949) 720-1292

*Plaintiffs' Co-Lead Counsel for
the
Personal Injury/Wrongful Death
Cases*

1 BEASLEY ALLEN CROW METHVIN
2 PORTIS & MILES PC

3 By: /s/ W. Daniel Miles, III

4 W. Daniel Miles, III
5 *dee.miles@beasleyallen.com*
6 272 Commerce St.
7 Birmingham, AL 36103
8 Telephone: (334) 269-2343

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Member of the Liaison Counsel Committee
for the Personal Injury/Wrongful Death
Cases

CERTIFICATE OF SERVICE

I hereby certify that I am over the age of 18, not a party to this litigation, and am an employee of King & Spalding LLP, which represents the Toyota Defendants in the above-referenced litigation. I further certify that a true and correct copy of the above and foregoing document was served upon the attorney of record for each other party through the Court's electronic filing service on May 7, 2019.

/s/ Jason Bush
Jason Bush